

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

REGINALD DINO GILMORE,

PETITIONER

VS.

HUGH SMITH, WARDEN,

RESPONDENT

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NO. 5:06-CV-200 (CAR)

PROCEEDINGS UNDER 28 U.S.C. § 2254
BEFORE THE U.S. MAGISTRATE JUDGE

ORDER

Pending in this 28 U.S.C. § 2254 action is petitioner REGINALD DINO GILMORE'S **MOTION TO FILE FEDERAL APPLICATION FOR FULL IMMEDIATE HABEAS CORPUS RELIEF AND FEDERAL EVIDENTIARY HEARING PURSUANT TO TITLE 28 U.S.C. § 2254, 2241(c)(3)**. (Tab # 5). In his motion, petitioner requests *immediate* habeas relief, an evidentiary hearing, and appointment of counsel.

Petitioner's motion for immediate relief is **DENIED**. The merits of this federal habeas petition will be ruled upon without the filing of such motions.

Petitioner's motion for an evidentiary hearing is likewise **DENIED**, subject to reconsideration by the Court after *full* consideration of responsive pleadings and the record of state proceedings. It will not be necessary for petitioner to re-submit this motion as the court is required to make a determination as to the need for such a hearing and will do so at the appropriate time.

Finally, petitioner's motion for appointment of counsel is **DENIED**. At the present time, the essential facts and legal doctrines in this case are ascertainable by the petitioner without the assistance of court-appointed legal counsel. The Court on its own motion will consider appointing legal counsel for the petitioner if and when it becomes apparent that legal assistance is required in order to avoid prejudice to his rights. Certainly, if an evidentiary hearing is required, counsel will be provided for the petitioner.

SO ORDERED, this 14th day of June, 2006.



A handwritten signature in blue ink, reading "Claude W. Hicks, Jr.".

CLAUDE W. HICKS, JR.
UNITED STATES MAGISTRATE JUDGE